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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,919		12/07/2004	Jorg L Schulte	LU6022	8713
26474	7590 06/12/2006			EXAMINER	
		ELUCA & QUIG	NAZARIO GONZALEZ, PORFIRIO		
1300 EYE S SUITE 400			ART UNIT	PAPER NUMBER	
WASHING	ron, do	20005	1621	•	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
Office Asking Commence	10/516,919	SCHULTE ET AL.					
Office Action Summary	Examiner	Art Unit					
	Porfirio Nazario-Gonzalez	1621					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1) Responsive to communication(s) filed on							
,	action is non-final.						
·—							
·	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims	•						
4) Claim(s) 1-11 is/are pending in the application.	I)⊠ Claim(s) <u>1-11</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)⊠ Claim(s) <u>6</u> is/are allowed.	☑ Claim(s) <u>6</u> is/are allowed.						
6)⊠ Claim(s) <u>1-5 and 7-11</u> is/are rejected.	☑ Claim(s) <u>1-5 and 7-11</u> is/are rejected.						
7) Claim(s) is/are objected to.	Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or	r election requirement.						
Application Papers							
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
<ul> <li>12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a)  All b)  Some * c) None of:</li> <li>1.  Certified copies of the priority documents have been received.</li> <li>2.  Certified copies of the priority documents have been received in Application No</li> <li>3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>							
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal P						
Paper No(s)/Mail Date	6) Other:						

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#### **DETAILED ACTION**

## **Priority**

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

# Claim Rejections - 35 USC § 112

- 2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims refer to variables that are as defined for formula (I). However, neither claim recites the formula (I) or have language which points to the location of formula (I) in the claims. Please correct.

## Claim Rejections - 35 USC § 102/103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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6. Claims 1-3 and 7-11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,739,366. The '366 patent disclose the compounds rac-Dimethylsilyl-bis{1-(2,3,7-trimethyl-4-phenylethylindenyl)}zirconium dichloride and rac-Dimethylsilyl-bis{1-(2,3,7-trimethyl-4-phenyldichloromethylindenyl)}zirconium dichloride. See column 11, lines 8-11. The disclosed compounds are useful as catalyst precursors for the polymerization of olefins. See column 1, lines 11-20. The '366 patent differ from the instant application in that the above mention compounds are not part of the compounds used in the examples. However, one skilled in the art would expect the above mention compounds to similar properties as the exemplified compounds and therefore be useful as catalyst precursors in olefin polymerization reactions.

# Allowable Subject Matter

# 7. Claim 6 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Porfirio Nazario-Gonzalez whose telephone number is 571-272-0641. The examiner can normally be reached on Mon.-Fri. (9:30 AM - 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PNG June 8, 2006